

## Governor Appoints Real Estate Commissioner

**O**n November 8, 1999, Governor Gray Davis appointed Paula Reddish Zinnemann as Real Estate Commissioner for the State of California.

Commissioner Reddish Zinnemann, of Los Angeles, is an attorney and a real estate broker. She has more than thirty years experience in the real estate business and, prior to being appointed Real Estate Commissioner, practiced law with the firm of Schwartz, Wisot and Wilson, LLP in Beverly Hills.

Commissioner Reddish Zinnemann previously served as a member of the City of Los Angeles' Rent Adjustment Commission and the Los Angeles County Assessment Appeals Board. She was a mediator for the Los Angeles County Superior Court and is a member of the Executive Committee of the Real Property Section of the Los Angeles County Bar Association. She is a past-President of the Beverly Hills Board of Realtors® and was an active member of the California Association of Realtors®.

Commissioner Reddish Zinneman received her Juris Doctor degree in 1983 from the University of West Los Angeles School of Law. 🏠

### AB 653

## The cautious use of nonlicensed employees

**T**here has been a lot of press in trade publications regarding the passage of Assembly Bill 653, some of which failed to set forth the full impact of AB 653 on a real estate broker's ability to utilize a nonlicensed employee to assist them in a residential loan transaction funded by an institutional lender, as defined.

AB 653 sets forth criteria for a real estate broker's use a nonlicensed employee to assist the broker in meeting the broker's obligations to his or her customers in residential mortgage loan transactions. AB 653 added,

in part, the following language to Business and Professions Code Section 10133.1:

"(c) (1) Subdivision (d) of Section 10131 does not apply to an employee of a real estate broker who, on behalf of the broker, assists the broker in meeting the broker's obligations to its customers in residential mortgage loan transactions, as defined in Section 50003 of the Financial Code, where the lender is an institutional lender, as defined in Section 50003 of the Financial Code, provided the employee does not par-

## DRE telephone number no longer required in advertising

**E**ffective January 1, 2000, Assembly Bill 432 amends Business and Professions Code Section 10236.4 to delete the requirement that brokers include DRE's license information telephone number in advertising which solicits borrowers or investors. The DRE license information telephone number, 916-227-0931, *is still required* to be included on all mortgage loan disclosure statements and lender/purchaser disclosure statements.

It should be noted that a broker is still required to display his or her license identification number on all advertisements which solicit borrowers or investors. The ad must also disclose licensure by the California Department of Real Estate as a real estate broker. 🏠

participate in any negotiations occurring between the principals.

(2) A broker shall exercise reasonable supervision and control over the activities of nonlicensed employees acting under this subdivision, and shall comply with Section 10163 for each location where the nonlicensed persons are employed.

This section does not restrict the ability of the commissioner to disci-

*Continued on page 2*

## MORTGAGE LOAN BULLETIN

Vol. 9 No. 2 Winter 1999

STATE OF CALIFORNIA  
GRAY DAVIS, *Governor*

BUSINESS, TRANSPORTATION AND  
HOUSING AGENCY  
MARIA CONTRERAS-SWEET  
*Secretary*

DEPARTMENT OF REAL ESTATE  
PAULA REDDISH ZINNEBANN  
*Real Estate Commissioner*

**Principal Office**  
2201 Broadway  
Sacramento, CA 95818

**Mailing Address**  
P.O. Box 187000, Sacramento, CA  
95818-7000

**Telephone**  
(916) 227-0770

John R. Liberator  
*Chief Deputy Commissioner*

Robin Wilson  
*Chief Counsel*

Thomas L. Pool  
*Managing Deputy Commissioner III  
Mortgage Lending*

Gary Sibner  
*Deputy Commissioner III  
Mortgage Lending Advertising*

The *MORTGAGE LOAN BULLETIN* is published as an educational service to real estate licensees engaged in mortgage lending activities.

Reproduction, in whole or in part, is authorized with attribution to the Department of Real Estate.

DRE's Internet address is:  
<http://www.dre.ca.gov>



## AB 653

*Continued from page 1*

pline a broker or corporate broker licensee or its designated officer, or both the corporate broker licensee and its designated officer, for misconduct of a nonlicensed employee acting under this subdivision, or, pursuant to Section 10080, to adopt, amend, or repeal rules or regulations governing the employment or supervision of an employee who is a nonlicensed person as described in this subdivision."

Note that the broker is responsible, among other things, for supervising the activities of any nonlicensed employee engaged in assisting the broker in meeting his/her obligations to their customers in a residential mortgage loan transaction and a broker can be disciplined for failing to adequately supervise the nonlicensed

employee and for the misconduct of that employee. In addition, the nonlicensed employee may not participate in any of the negotiations between the principals, and the nonlicensed employee must work only from a location licensed by his or her employing broker.

It is clear from a plain reading of AB 653 that allowing a nonlicensed employee to participate fully in a loan transaction or failing to adequately supervise the activities of that employee are oversights which could lead to disciplinary action. In order to avoid problems, a broker should perform a carefully read AB 653 to determine their responsibility before choosing to use nonlicensed employees to assist them in residential mortgage loan transactions. 🐾

## SB 820

### Electronic signatures not allowed for Mortgage Loan Disclosure Statements

Senate Bill 820 adds the Uniform Electronic Transactions Act to the California Civil Code (Section 1633.1, et seq.), effective January 1, 2000. This act allows the use, in some circumstances, of an electronic signature and provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form. The act, however, provides for some important exceptions to the use of an electronic signature, including disclosures that by law must be separately signed. As Business and Professions Code Sections 10240 and 10232.4 specifically require a broker to obtain the principal's signature on the Mortgage Loan Disclosure Statement and Lender Purchaser Disclosure Statement, respectively, the Uniform Electronic Transactions Act does not apply to these disclosures and original signatures must be obtained. 🐾

### On The Lighter Side

The following was taken from a letter to the DRE:

"... the real estate agent told me that the owner was dead, but the executioner could sign for him." 🐾

## Available on the Net

### Forms Revised

The Lender/Purchaser Disclosure Statements (RE 851A and B) have been revised. These forms, used when originating or selling a private investor real property secured note, were revised to incorporate the multi-lender disclosure requirements under Business and Professions Code Section 10229. The Business Activity Report (RE 881), was also revised to accommodate the multi-lender reporting requirements under Business and Professions Code Section 10229. Those brokers who satisfy the threshold or multi-lender reporting criteria must use the revised RE 881 when filing their year-end reports.

The following mortgage lending forms may be downloaded from the DRE Web site at [www.dre.ca.gov](http://www.dre.ca.gov):

- RE 851A Lender/Purchaser Disclosure Statement (Loan Origination)
- RE 851B Lender/Purchaser Disclosure Statement (Sale of Existing Note)
- RE 851C Lender/Purchaser Disclosure Statement (Collateral Loan)
- RE 852 Trust Account Report (Multi-Lender Transactions)
- RE 853 Threshold Notification (§10232)
- RE 854 Trust Fund Non-Accountability Report
- RE 855 Trust Fund Status Report
- RE 856 Trust Fund Bank Account Reconciliation
- RE 858 Disclosure Requirements in Advertising
- RE 860 Multi-Lender Transaction Notice
- RE 881 Mortgage Loan/Trust Deed Annual Report
- RE 882 Mortgage Loan Disclosure Statement (Borrower)
- RE 883 Mortgage Loan Disclosure Statement/Good Faith Estimate (legal size)
- RE 884 Mortgage Loan Advertising Submittal

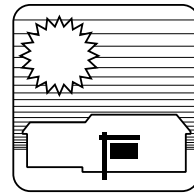
### Mortgage Loan Advertising

## To submit or not to submit?

Business and Professions Code §10232.1 provides for *voluntary* submission of mortgage loan advertising to the Department for review. This includes proposed advertising which would solicit prospective borrowers, lenders/investors, or buyers and sellers of notes secured by real property. This is the only way to obtain approval of an advertisement. While many brokers call the Department's Mortgage Loan Activities Unit with questions related to advertising do's and don'ts, we cannot issue an approval by telephone or fax. To obtain review of a proposed advertisement, a broker must submit the ad in triplicate with two completed Mortgage Loan Advertising Submittals (RE 884) and a check payable to Department of Real Estate for \$40. Only one ad may be submitted with each form/fee. Upon receipt, the proposed ad will be reviewed and the broker notified in writing of our approval, conditional approval or disapproval. For additional information or questions regarding mortgage loan advertising, please call the Mortgage Loan Activities Unit at (916) 227-0770. The RE 884 can be downloaded from the DRE Web site at [www.dre.ca.gov](http://www.dre.ca.gov). 📄

## Residential Mortgage Loan Report

The Health and Safety Code requires real estate brokers who are *direct lenders* in certain types of loan transactions to report to the Department of Real Estate all activities related to application by, and loans made to, the public for home purchase and/or home improvement purposes. If a real estate broker reports such lending activity to the federal government under the provisions of the federal Home Mortgage Disclosure Act (HMDA), *it is not necessary to report at the state level.*



The State of California Residential Mortgage Loan Report (RE 857) must be submitted to the DRE by all real estate brokers required to report in accordance with the provisions of the Health and Safety Code whose assets total \$10 million or less and who regularly make real estate purchase and/or home improvement loans. "Regularly" is defined to mean twelve or more transactions annually during the immediately preceding calendar year that in aggregate total more than \$500,000.

Mortgage lending data is to be collected annually and reported on the RE 857 by March 31 of the following year. Thus, the report for calendar year 1999 must be submitted to DRE by March 31, 2000.

If you are a lender and not required to report to HUD or another federal agency under HMDA, please contact Gary Sibner at 916-227-0770 with any questions or to obtain the reporting forms. 📄

# Identity Theft

*by Ed Grant, Managing Deputy Commissioner*

**C**ould the innocent act of a licensee aid criminals? It would appear so from information just received by the Department.

Identity theft is a booming crime involving someone obtaining the name, address, telephone number, driver's license number, social security number, place of employment, mother's maiden name, credit card number, etc. of another person and using this information to obtain, or attempt to obtain, credit, goods, services, etc. The criminal may have credit cards issued in the victim's name and/or a driver's license with the criminal's picture and the victim's name on it. The criminal runs up hundreds of dollars in expenses under the victim's name. Another example is credit card charges by telephone, using the victim's mother's maiden name, the victim's birth date, credit card number, and the expiration date of the credit card.

There have been several recent newspaper articles on this subject. One told of an

attorney who received a call concerning an unpaid bill of \$11,000 for toys. Then an unpaid bill for a \$50,000 Mustang convertible. Then a threatened lawsuit involving a rental car he had not rented that had been in an accident. Another recent story involved someone using a victim's social security number to set up a Pacific Bell account and run up \$800 worth of phone bills.

Identity theft has prompted passage of a number of new laws and more are being considered.

Here's how several licensees became unwitting accomplices to identity theft.

Recently, a sheriff's office faxed an emergency communication to the Department. Officers had just arrested several parties for identity theft. When the arrests were made, the officers found documents involving hundreds of persons. Among other papers, there were credit checks related to mortgage loan applications. Loan applications ask a borrower where he banks, bank account num-

bers, bank balances, social security numbers, credit cards, credit card numbers, credit card balances, etc. The arrested parties told the officers they had obtained these documents from the trash bins of several mortgage loan brokerages. The officers questioned our licensees. Apparently, it was routine for several licensees to throw away extra copies of documents and/or the files of parties who did not complete the loan process. The sheriff's office is in the process of contacting the parties named in the documents to ascertain if they had in fact become victims of identity theft.

Section 10148 of the Business and Professions Code specifies what documents a broker must retain for three years. When disposing of documents the broker is no longer required to keep, caution should be exercised if the documents contain personal information. In this regard, brokers should review their procedures for disposing of documents containing personal information, so they are discarded in such a manner that they will not fall into the wrong hands. 🐾

*Official Publication*

CALIFORNIA DEPARTMENT OF REAL ESTATE

P.O. Box 187000

Sacramento, California 95818-7000